

JUDGE ROBINSON

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MIRIAM KATZ

COMPLAINT

Plaintiff,

-against-

09 CIV 6565

BNA FINANCIAL SERVICES, INC.

Defendant.

**COMPLAINT FOR VIOLATIONS
OF THE FAIR DEBT COLLECTION PRACTICES ACT**

Plaintiff Miriam Katz by and through her attorney, Kleinman LLC, files this complaint against defendant BNA Financial Services, Inc. for its violations of the Fair Debt Collection Practices Act.

Introduction

1. This action seeks redress for the illegal practices of Defendant, BNA Financial Services, Inc., concerning the collection of debt, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* ("FDCPA").

Jurisdiction and Venue

2. This Court has Federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.

3. Venue is proper in this District because the acts and transactions that give rise to this occurred, in substantial part, in this District. Additionally, Katz resides in this District and the Defendant transacts business here.

4. Miriam Katz is a citizen of the State of New York, Rockland County who resides in this District.

FILED
U.S. DISTRICT COURT
2009 JUL 24 PM 6:36
S.D. OF N.Y.

5. Miriam Katz is a “Consumer” as that term is defined by § 1692(a)(3) of the FDCPA in that the alleged debt that the Defendant, BNA, sought to collect from her is a consumer debt, purportedly owed to Good Samaritan Hospital.

6. Upon information and belief, Defendant BNA is an active Tennessee Corporation. Its Registered Agent is John R. Powers, CPA, 210 25th Avenue North, Suite 1106, Nashville, TN 37203.

7. Defendant, BNA is regularly engaged in the collection of debts allegedly owed by consumers.

8. Defendant, BNA is a “Debt Collector” as that term is defined by § 1692(a)(6) of the FDCPA.

9. On or about June 18, 2009, plaintiff received a mass produced computer generated collection letter demanding payment of a \$204.64 debt purportedly owed to Good Samaritan. **Exhibit A.**

10. On July 10, 2009 a letter was sent to defendant disputing the debt and requested verification of the disputed debt. **Exhibit B.**

11. On July 17, 2009, Defendant provided verification of a \$204.64 debt by providing a Good Samaritan Hospital Itemized Bill totaling \$13,754.85 and requested payment of a \$204.64 debt. **Exhibit C.**

AS AND FOR A FIRST CAUSE OF ACTION

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

12. Katz realleges and incorporates herein by reference, all the foregoing paragraphs as if set forth fully herein.

13. Upon information and belief, the June 18, 2009 collection letter is a form

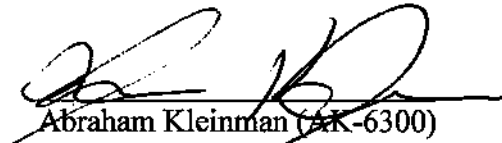
letter sent by Defendant to the Plaintiff.

14. Collection letters, such as those sent by Defendant, are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."
15. Defendant's letter violated 1692g(b), by attempting to collect a timely disputed debt prior to providing the consumer with verification of the debt.
16. Defendant's violated the FDCPA. Defendant's violations include, but are not limited to violating 15 U.S.C. § 1692g(b) by attempting to collect a disputed debt prior to providing verification of the debt.

WHEREFORE, the plaintiff requests that this Court grant the following relief in their favor, against BNA as follows:

- a) The maximum statutory damages provided by section 1692k of the FDCPA against defendant;
- b) Attorney's fees, litigation expenses and costs;
- c) Any other relief that this Court deems just and proper.

Dated: Uniondale, New York
July 24, 2009


Abraham Kleinman (AK-6300)
KLEINMAN LLC
626 RXR Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692

Plaintiff requests trial by jury on all issues so triable.



Abraham Kleinman (AK-6300)

EXHIBIT A

**BNA FINANCIAL SERVICES, INC.**

8010 Safari Dr ♦ Smyrna TN 37167-6605
(615) 836-0100 or Toll Free (866) 377-9159

June 18, 2009

Account Number: 11410974

Creditor: Good Samaritan

Account Number	Patient Name	Balance
11410974	Katz Miriam	204.64
Total Amount Due:		\$204.64

Your past due account has been placed with this collection agency. If you are aware of any reason for non payment of this amount, or you need to arrange a satisfactory settlement, please call us at 866-377-9159. If we do not hear from you, we will expect the balance promptly. Should you have already paid this balance, please disregard this letter.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of the debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will: obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose. This collection agency is licensed by the collection service board, state department of commerce and insurance, 500 James Robertson Parkway, Nashville, TN 37243.

California residents please see reverse for important information

If you wish to pay by VISA or MasterCard, fill in the information below and return the entire letter to us.

The 3 digit ID Number is located on the reverse side of your credit card



Account Number	ID Number	Payment Amount	Expiration Date
11410974	123456789	\$	-/-

Card Holder Name

Signature of Card Holder

Date

Detach Lower Portion And Return With Payment

VONBNAP01206

PO Box 899
Smyrna TN 37167-0899

RETURN SERVICE REQUESTED

**BNA FINANCIAL SERVICES, INC.**

(615) 836-0100 or Toll Free (866) 377-9159

June 18, 2009

2248454-206 182525017



Miriam Katz
20 Smolley Dr
Monsey NY 10952-2021

PLEASE MAKE YOUR CHECKS PAYABLE TO:

GOOD SAMARITAN
Lockbox #404310
Atlanta Ga 30384-4310

Total Amount Due: \$204.64

Account #: 11410974

Patient: Katz Miriam

Amount Enclosed \$

Exhibit B

Miriam Katz
20 Smolley Drive
Monsey, NY 10952

July 9, 2009

VIA FACSIMILE TO 615-836-0106

BNA Financial Services, Inc.
8010 Safari Drive
Smyrna, TN 37167

Your Account # 11410974
Your Client Name: Good Samaritan
Disputed Balance: \$204.64

To Whom It May Concern,

1. Please be advised that I dispute that I owe \$204.64 to Good Samaritan.
2. Please send me verification of this disputed debt.
3. Please send me the true corporate name of your company.

Thank you,

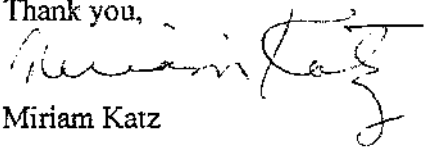

Miriam Katz

Exhibit C

BNA FINANCIAL
PO BOX 899
SMYRNA, TN 37167
800-727-3032

Date: 7/17/09

Dear Sir or Madam:

Enclosed you should find copies of the documents you requested. Please review them and contact us to make appropriate arrangements.

You can contact us during business hours of:

Monday-Thursday: 8am-8p.m
Friday: 8am-4pm

Information you should have when calling:

Your account number: 11410974
Patient Name: Miriam Katz
Address: 20 Smalley Dr.
Monsey, NY 10952
Your existing balance: \$204.64

Call me upon receipt of this letter at 1-800-727-3032. We look forward to working with you to get this matter taken care of.

Sincerely,



Collection Representative
BNA Financial Bureau



GOOD SAMARITAN HOSPITAL
255 LAFAYETTE AVENUE
SUFFERN, NY 10901

PHONE: (866) 940-8375

MIRIAM KATZ
20 SMOLLEY DRIVE
MONSEY, NY 10952

GSH
(1)

Patient: KATZ MIRIAM
Acct #: 11410974
Admit Dt: 12/12/2008
Dischg Dt: 12/12/2008

Facility: Good Samaritan Hospital

ITEMIZED BILL

Date	Service	Description	Qty	Amount	Date	Service	Description	Qty	Amount
12/12/08	810059	ENDO ROOM 31 TO 60 MIN	1	10,929.00					
12/12/08	340118	MAC ANES 0.5 TO 1 HR	1	1,633.00					
12/12/08	474049	SURGICAL PATH LEVEL IV	1	557.00					
12/12/08	474677	REF IMMUNOHISTOCHEM	1	349.00					
12/12/08	502201	FENTANYL 0.05MG/ML INJ	1	23.62					
12/12/08	504618	PROPOFOL 10MG/ML SDV	1	54.92					
12/12/08	502197	FENTANYL 100MCG/HR	1	208.31					
Total:				13,754.85					